

PATENTAtty Docket No.: 200308654-1
App. Ser. No.: 10/705,932**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the amendments above and the following remarks. By virtue of the amendments above, claims 1, 14, 18, 22, and 24 have been amended. Claims 1-4, 6-22, and 24 are pending, of which claims 1, 14, 18, and 22 are independent. Claims 5 and 23 were previously canceled. Support for the amendments may be found in the original specification at page 22, lines 19-22, page 23, lines 17-19, and page 24, lines 4-9.

Claims 14 and 22 were rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter.

Claims 1-4, 6-22, and 24 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,039,634 to Xu et al. ("Xu").

These rejections are respectfully traversed for the reasons stated below.

Examiner Interview Conducted

The undersigned thanks Examiner Ponikiewski and Primary Examiner Kimberly Lovel for the courtesies extended in a telephonic interview on May 22, 2008. During the interview, while the Examiner Ponikiewski did not definitely agree to withdraw all of the outstanding objections and rejections in the application in light of the above amendments and the following arguments, the Examiner agreed to reconsider.

More specifically, with respect to the rejection of claims 1-4, 6-22, and 24 under 35 U.S.C. §102(e) as being anticipated by Xu, the Examiner Ponikiewski tentatively agreed that Xu fails to teach identifying and selecting, based on samples received from a first set of nodes, a first node among the first set of nodes likely storing information associated with

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objects stored in a peer-to-peer system that are relevant to a query to determine search results for the query. Instead, as pointed out during the interview, Xu teaches a destination node flooding a query to surrounding nodes within a radius r (Xu at column 4, lines 35-38; column 7, lines 9-12; and column 8, lines 16-19). However, the Examiner Ponikiewski indicated that a final determination as to the rejection over Xu will be made after a further review.

Claim Objections

Claims 1, 14, 18, 22, and 24 were objected to as including informalities. More specifically, the Office Action seems to state that the phrase "values include at least one of the objects and addresses for the objects" in each of claims 1, 14, 18, and 22 lacks support in the original specification. However, support for the phrase is found in the original claim 5 and the original specification at page 7, lines 4-7. As to the original specification at page 7, lines 4-7, which states that that the "address may include the object itself or an address for the object," while each individual address (i.e., the value) may have the object itself or an address for the object, values as a group may have "objects and addresses for the objects" as recited in the original claim 5.

As to other grounds for the objection, claims 1, 14, 18, 22, and 24 have been amended, and, as amended, claims 1, 14, 18, 22, and 24 are submitted to overcome the objection.

Thus, the withdrawal of the foregoing objection is respectfully requested.

Claim Rejection Under 35 U.S.C. §101

Claims 14 and 22 were rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. More specifically, the Office Action

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states that claims 14 and 22 are directed to software. Amended claim 14 recites an apparatus for identifying samples to determine search results for a query in a peer-to-peer system, the apparatus comprising, inter alia, "a storage device to store the received samples," and claim 22 recites a peer-to-peer system comprising, inter alia, "a plurality of nodes . . . , each of the plurality of nodes comprising a storage device to store information." Such apparatus and system are clearly statutory subject matter. Thus, the withdrawal of the foregoing rejection is respectfully requested.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

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Claims 1-4, 6-22, and 24

Claims 1-4, 6-22, and 24 were rejected under 35 U.S.C. §102(c) as being anticipated by Xu. The rejection is respectfully traversed for at least the following reason.

Claim 1 recites a method for identifying samples to determine search results for a query in a peer-to-peer system, the method comprising, *inter alia*, "identifying and selecting, based on the samples received from the first set of nodes, a first node among the first set of nodes likely storing information associated with objects stored in the peer-to-peer system that are relevant to the query to determine search results for the query."

Xu fails to teach identifying and selecting, based on samples received from a first set of nodes, a first node among the first set of nodes likely storing information associated with objects stored in a peer-to-peer system that are relevant to a query to determine search results for the query. Instead, Xu teaches that a destination node floods a query to surrounding nodes within a radius r . Xu at column 4, lines 35-38; column 7, lines 9-12; and column 8, lines 16-19. In Xu, the flooding of the query to the surrounding nodes within a radius r does not teach receiving samples from the surrounding nodes and identifying and selecting one of the surrounding nodes based on the received samples.

Thus, for at least the foregoing reasons, Xu fails to teach all of features of independent claim 1 and its dependent claims.

Independent claims 14, 18, and 22 each recite features similar to those discussed above for claim 1 as follows. Claim 14 recites "means for identifying and selecting, based on the samples received from the first set of nodes, a first node of the first set of nodes likely storing information associated with objects stored in the peer-to-peer system that are relevant

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to the query to determine search results for the query." Claim 18 recites "identifying and selecting, based on the samples received from the first set of nodes, a first node of the first set of nodes likely storing information associated with objects stored in the peer-to-peer system that are relevant to the query." Claim 22 recites "the first node utilizing the samples to identify and select an index of one of the other nodes to search in response to receiving the query."

Thus, for at least the same reasons set forth earlier with respect to claim 1, Xu fails to teach all of features of independent claims 14, 18, and 22 and their respective dependent claims.

Accordingly, withdrawal of this rejection and allowance of claims 1-4, 6-22, and 24 is respectfully requested.

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Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

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